

Civics Summer Activity for 12th Government and Economics

Welcome to 12th grade Government and Economics at West Broward High School! Please follow the directions below according to the course you are enrolled for and ensure it is done before the 1st week of the 2022-2023 school year.

Regular Government or Economics: Students are to choose 1 of the supreme court cases below to review and complete. It is preferred that this assignment is typed, labeled appropriately, and has your name at the top, with the title as the Supreme Court Case name and year. If you do not have access to type your assignment, please ensure your handwriting is legible.

Honors Government or Economics: Students are to choose three (3) of the supreme court cases below to review and complete. It is preferred that this assignment is typed, labeled appropriately, and has your name at the top, with the title as the Supreme Court Case name and year. If you do not have access to type your assignment, please ensure your handwriting is legible.

Supreme Court Case 1

The Supreme Court's Power of Judicial Review Marbury v. Madison, 1803

Background of the Case

The election of 1800 transferred power in the federal government from the Federalist Party to the Republican Party. In the closing days of President John Adams's administration, the Federalists created many new government offices, appointing Federalists to fill them. One of the last-minute or "midnight" appointments was that of William Marbury. Marbury was named a justice of the peace for the District of Columbia. President Adams had signed the papers, but his secretary of state, John Marshall, somehow neglected to deliver the papers necessary to finalize the appointment.

The new president, Thomas Jefferson, was angry at the defeated Federalists' attempt to "keep a dead clutch on the patronage" and ordered his new secretary of state, James Madison, not to deliver Marbury's commission papers. Marbury took his case to the Supreme Court, of which John Marshall was now the Chief Justice, for a writ of mandamus—an order from a court that some action be performed—commanding Madison to deliver the commission papers in accordance with the Judiciary Act of 1789.

Constitutional Issue

Article III of the Constitution sets up the Supreme Court as the head of the federal judicial system. Historians believe that the Founders meant the Court to have the power of judicial review, that is, the power to review the constitutionality of acts of Congress and to invalidate those that it determines to be unconstitutional. The Constitution, however, does not specifically give the Court this right.

Chief Justice John Marshall, as a Federalist, believed strongly that the Supreme Court should have the power of judicial review. When the Marbury case presented the perfect opportunity to clearly establish that power, Marshall laid out several points which the court believed supported the right of judicial review. At the time, the decision was viewed as a curtailment of the power of the president, but people today recognize that the case established, once and for all, the importance of the Supreme Court in American government.

The Supreme Court's Decision

Justice Marshall reviewed the case on the basis of three questions: Did Marbury have a right to the commission? If so, was he entitled to some remedy under United States law? Was that remedy a writ from the Supreme Court?

Marshall decided the first question by holding that an appointment is effective once a commission has been signed and the U.S. seal affixed, as Marbury's commission had been. Therefore, Marbury had been legally appointed, and Madison's refusal to deliver the commission violated Marbury's right to the appointment. In response to the second question,

Marshall held that Marbury was entitled to some remedy under United States law.

The final question examined whether the Court had the power to issue the writ. Marshall explained that the right to issue writs like the one Marbury was requesting had been granted the Court by the Judiciary Act of 1789. This law, however, was unconstitutional and void because the Constitution did not grant Congress the right to make such a law. In his written opinion, Marshall defended the right of the Court to declare a law unconstitutional: "It is emphatically the province and duty of the judicial department to say what the law is If two laws conflict with each other, the courts must decide on the operation of each." The Supreme Court thus became the final judge of constitutionality, thus establishing the principle of judicial review.

At the time, observers were much more interested in the practical result of the ruling—that the Court could not issue the writ, and could not, therefore, force the appointment of Marbury. Congress could not expand the Court's original jurisdiction, and the Constitution does not give the Court the authority to issue a writ. They paid much less attention to the long-term implications of the decision. Here is how a constitutional scholar evaluates the Marbury decision:

"Over the passage of time [the] Marbury [decision] came to stand for the monumental principle, so distinctive and dominant a feature of our constitutional system, that the Court may bind the coordinate branches of the national government to its rulings on what is the supreme law of the land. That principle stands out from Marbury like the grin on a Cheshire cat; all else, which preoccupied national attention in 1803, disappeared in our constitutional law."

Not until fifty years after rendering the Marbury decision did the Court again declare a law unconstitutional, but by then the idea of judicial review had become a time-honored principle.

Review Questions

1. Why is the Marbury case important in the history of the Supreme Court?
2. In what way did the Marbury decision enhance the system of checks and balances provided for in the Constitution?
3. Constitutional scholars have pointed out there is an inconsistency in Justice Marshall's opinion with respect to what the Constitution specifically provides. What is that inconsistency?
4. The United States is one of the few countries in which the highest court of the land has the power to declare a law unconstitutional. Do you believe that such a power is of benefit to a country? Explain your answer.
5. Justice John Marshall was a Federalist who believed in a strong national government and certainly moved in this direction with his Marbury ruling. Do you think it is proper for a Supreme Court Justice to allow his or her personal political opinions to influence the rulings of the Court? Explain.

Supreme Court Case 2

Power of the Federal Government v. Power of the State Government

McCulloch v. Maryland, 1819

Background of the Case

The Supreme Court first settled a dispute between a national and a state law in 1819. The Second Bank of the United States had been chartered by Congress in 1816. Large sections of the country, especially the West and South, bitterly opposed the Bank. The Bank's tight credit policies contributed to an economic depression, and many states reacted against what they saw as a "ruthless money trust" and "the monster monopoly." Two states even prohibited the bank from operating within their jurisdictions. Six other states taxed Bank operations. In 1818 the Maryland legislature placed a substantial tax on the operations of the Baltimore branch of the Bank of the United States. The cashier of the Baltimore branch, James McCulloch, issued bank notes without paying the tax. After Maryland state courts ruled against McCulloch for having broken the state law, he appealed to the United States Supreme Court. The constitutional questions in the McCulloch v. Maryland case concern both the powers of Congress and the relationship between federal and state authorities.

Constitutional Issues

One of the issues that concerned the Founders at the Constitutional Convention was how to divide power between the federal government and state governments. Reconciling national and local interests proved difficult. In the McCulloch case, the Supreme Court ruled in favor of federal power. On the question of the validity of Maryland's bank tax, Marshall again noted the Constitution's supremacy, but he also recognized a state's constitutional right to impose taxes. Echoing his earlier argument, Marshall observed that a government may properly tax its subjects or their property. The federal government and its agencies, however, are not subjects of any state. A tax on a national institution by one state would be an indirect tax on citizens of other states, who would not benefit from such a tax. Furthermore, the power to tax, if misused, is also the power to harm an institution. The power of Congress to establish an institution must imply the right to take all steps necessary for its preservation. In a conflict between the federal power to create and preserve a corporation and a state's power to levy a tax, the state must yield. Therefore, the Court denied Maryland's power to tax the Second Bank of the United States. In this way Marshall ensured the power of Congress to enact legislation "under a Constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs."

In conclusion, Marshall wrote, ". . . this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the government of the Union to carry its powers into execution. Such a tax must be unconstitutional . . ."

The Court's decision in the McCulloch case brought a storm of abuse raining down on the Court. Virginia passed a resolution urging that the Supreme Court be divested of its power to pass on cases in which states were parties. Ohio, which like Maryland had a tax on the United States Bank, simply

continued to collect the tax. The decision was particularly offensive to believers in the strict, literal interpretation of the Constitution because it sustained the doctrine of implied powers. Nevertheless, the McCulloch decision, in upholding the principle of implied powers, enlarged the power of the federal government considerably and laid the constitutional foundations for the New Deal in the 1930s and the welfare state of the 1960s.

The Supreme Court's Decision

Chief Justice John Marshall wrote the decision for a unanimous Court. He started with the question, "Has Congress the power to incorporate a bank?"

In first determining the extent of congressional power, Marshall held that the Constitution is a creation not of the states, but of the people, acting through statewide constitutional conventions. Therefore, the states are bound in obligation to the Constitution, which is "the supreme law of the land." Marshall summed up the decision based on the Supremacy Clause, saying, "If any one proposition could command the universal assent of mankind we might expect it to be this—that the government of the Union, though limited in its powers, is supreme within its sphere of action The states have no power to retard, impede, burden, or in any manner control, the operation of the constitutional laws enacted by Congress."

Although the specific powers of Congress do not include the power to charter a corporation, the section enumerating these powers includes a statement giving Congress the authority to make the laws "necessary and proper" for executing its specific tasks. In Marshall's analysis, the terms "necessary and proper" grant Congress implied powers to carry out granted, or enumerated, powers. "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional," the Chief Justice wrote. The choice of means is for Congress to decide. In the McCulloch case, the Court held that Congress had the power to incorporate a bank.

Review Questions

1. What constitutional principle did the Supreme Court establish in the McCulloch case?
2. What is the objective of the "necessary and proper" clause?
3. What was the basis for the Court's ruling that Maryland could not tax the Second Bank of the United States?
4. How did the fact that Justice Marshall was a Federalist influence his ruling in the McCulloch case?
5. How did the McCulloch ruling contribute to the strength of the national government?

Supreme Court Case Study 3 **Legality of Segregation by Race Plessy v. Ferguson, 1896**

Background of the Case

In 1890 Louisiana passed a law ordering railroads in the state to "provide equal but separate accommodations for the white and colored races." Violations of the law carried a fine of \$25 or 20 days in jail. Railway personnel were responsible for assigning seats according to race.

On June 7, 1892, Homer A. Plessy, who was one-eighth African American, decided to test the law's validity by sitting in the white section of a train going from New Orleans to Covington, Louisiana.

When a conductor ordered Plessy to give up his seat, he refused. He was then arrested and imprisoned in a New Orleans jail. He was tried by a New Orleans court and found guilty of having violated the Louisiana law described above. He appealed to the Louisiana Supreme Court, which found the law valid. Plessy then appealed to the United States Supreme Court, claiming his conviction and the Louisiana railroad law were unconstitutional because they violated the Thirteenth and Fourteenth Amendments.

Constitutional Issue

In the Reconstruction period after the Civil War, although slavery had been abolished by the Thirteenth Amendment, African Americans lived in a segregated society, especially in the South. The Fourteenth Amendment banned the deprivation of life, liberty, or property without “due process of law.” Yet laws were passed in southern states that required segregated schools, theaters, parks, buses, and railroad trains. The Plessy case challenged the constitutionality of these so-called Jim Crow practices.

Homer A. Plessy challenged the constitutionality of segregation laws in Louisiana.

He based his appeal on the Thirteenth Amendment, which abolished slavery, and the Fourteenth Amendment, which prohibited the states from denying “the equal protection of the law” to any person.

The Supreme Court’s Decision

A majority of the Court denied Plessy’s appeal and upheld the practice of segregation as required by the Louisiana law. Justice Henry Brown wrote the majority opinion. First, the ruling brushed aside the relevance to the case of the Thirteenth Amendment. Brown wrote that “a legal distinction between white and colored races . . . has no tendency to destroy the legal equality of the two races.”

The rest of the Court’s opinion, however, dealt with the applicability of the Fourteenth Amendment.

Brown concluded that this amendment aimed strictly “to enforce the absolute equality of the two races before the law,” but that it “could not have been intended to abolish distinctions based on color, or to enforce social, as distinguished from political, equality . . .” Laws requiring segregation “do not necessarily imply the inferiority of either race to the other . . .” The majority noted that this was the “underlying fallacy” of Plessy’s case. Just as valid under the Fourteenth Amendment would be a similar law enacted by an African American-controlled legislature with respect to whites or other races.

The Court ruled, then, that the matter ultimately depended on whether Louisiana’s law was “reasonable.” Segregation laws “have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police powers.” In such matters, a legislature is free to take into account “established usages, customs, and traditions of the people,” as well as “the preservation of public peace and good order.”

Finally, the Court rejected the notion that “social prejudices may be overcome by legislation.” Brown maintained, “If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them on the same plane.”

The Court, in effect, enunciated a doctrine that came to be called the separate-but-equal principle. If African Americans saw this as “a badge of inferiority,” it was solely “because the colored race chooses to put that construction upon it.”

Dissenting Opinion

Justice John Marshall Harlan entered a vigorous dissent from the majority’s decision. He “regretted that this high tribunal . . . has reached the conclusion that it is competent for a state to regulate the enjoyment by citizens of their rights solely upon the basis of race.” He saw segregation on racial lines as “a badge of servitude wholly inconsistent with the civil freedom and equality before the law established by the Constitution The thin disguise of ‘equal’ accommodations for passengers in railroad coaches will

not mislead anyone, nor atone for the wrong this day done.” Harlan saw the Constitution as “color-blind, and neither knows nor tolerates classes among citizens.”

The separate-but-equal principle was finally overturned in a series of civil rights decisions of the Court in the 1950s, most notably in *Brown v. Board of Education*.

Review Questions

1. Explain how the Supreme Court justified the practice of segregating railroad passengers in Louisiana by race.
2. What is the meaning of the separate-but-equal principle?
3. On what grounds did Justice Harlan criticize the majority’s ruling?
4. Why do you think Plessy based his appeal in part on the Thirteenth Amendment?
5. What do you think was the effect of the Plessy decision on the nation, especially on the southern states?

Supreme Court Case 4 **Nullifying the Separate but Equal Principle *Brown v. Board of Education of Topeka, Kansas, 1954***

Background of the Case

Linda Brown, an African American teenager, applied for admission to an all-white public school in Topeka, Kansas. The board of education of Topeka refused to admit her. In a 1950 case, *Sweatt v. Painter*, the Supreme Court had for the first time questioned the constitutionality of the Plessy decision. The Court had held in that case that African Americans must be admitted to the previously segregated University of Texas Law School because no separate but equal facilities existed in Texas. The National Association for the Advancement of Colored People (NAACP) now saw denying admission to Linda Brown and other young African Americans as an opportunity to challenge segregation in the public schools, even though the facilities in other segregated schools for African Americans were equal to those for white students.

Brown represents a collection of four cases, all decided at one time. The cases had one common feature: African American children had been denied admission to segregated, all- white public schools. The cases reached the United States Supreme Court by way of appeals through lower courts, all of which had ruled in accordance with the 1896 Plessy decision.

Constitutional Issue

The *Brown* case called for an explicit reappraisal of the Plessy decision. Did separate but equal public facilities violate the equal protection clause of the Fourteenth Amendment? In the case of *Plessy v. Ferguson*, the Supreme Court had established the separate but equal principle, which allowed the continuation of segregated schools and public facilities. During the 56 years since the Plessy decision, however, Americans’ views on segregation had changed. To many people, the very idea of segregated schools as well as other segregated public facilities seemed to be out of step with the times. In the years after World War II, the NAACP and other civil rights groups began pressing for nullification of the separate but equal idea. The justices were not immune to the changing social forces in the United States.

Still, if in fact they wished to overturn Plessy in the Brown case, they faced the challenge of finding a constitutional basis for their decision.

The Supreme Court's Decision

The Court ruled unanimously to overrule the separate but equal principle. Chief Justice Earl Warren, who wrote the decision, was keenly aware that in overruling Plessy, an act of enormous social and political consequences, it was important for the entire Court to be in agreement. The Brown ruling was thus issued by a unanimous Court.

In his decision, Warren explained that since the relation of the Fourteenth Amendment to public schools was difficult to determine, the Court would “look instead to the effect of segregation itself on public education.” The chief justice explained, “We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the law.” The Court concluded that segregation of African American schoolchildren “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” To bolster his claim about the huge psychological impact of segregation, Warren quoted the finding of a lower court, even though the lower court ruled against the African American children. That court had stated: “Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has the tendency to [retard] the education and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system.”

Agreeing with this statement, Warren concluded, “Whatever may have been the extent of psychological knowledge at the time of Plessy v. Ferguson, this finding is amply supported by modern authority. Any language in Plessy v. Ferguson contrary to this finding is rejected.”

On this basis the Court concluded “that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. Therefore we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the law guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the due process clause of the Fourteenth Amendment.”

In a follow-up to the Brown case, in 1955 the Court ordered that the integration of the public schools was to go forward “with all deliberate speed.”

Review Questions

1. Why do you think the Court recognized the huge psychological impact that segregated schools had on children who attended them?
2. children who attended them?
3. A constitutional scholar has called the Court's ruling in the Brown case “the Supreme Court's most important decision of the twentieth century.” Why do you think he would make this claim?
4. Do you agree or disagree with the Court's ruling in the Brown case? Give reasons for your answer.
5. How do you think the Court's Brown ruling was received in the South?
6. Initially all the justices may not have agreed that separate but equal schools were unconstitutional. Why then do you think they ultimately agreed with the chief justice?

Supreme Court Case 5

The Rights of the Accused Miranda v. Arizona, 1966

Background of the Case

Ernesto Miranda had been arrested at his home in Phoenix, Arizona, and accused of kidnapping and rape. Questioned at the police station by two police officers, he was not advised of his right to an attorney nor his right to remain silent. After two hours of interrogation, he signed a written confession to the crimes. At his trial, he was found guilty and sentenced to 20 to 30 years in prison. He took his case to the United States Supreme Court.

case in order to explore and clarify certain problems arising from earlier decisions related to the rights of individuals taken into police custody. The precise question that the Court explored was under what circumstances an interrogation may take place so that a confession made during the interrogation would be constitutionally admissible in a court of law.

The Supreme Court's Decision

The Supreme Court overturned Miranda's conviction in a 5 to 4 decision. Chief Justice Earl Warren wrote the majority opinion. The Court's ruling centered on what happens when a person is taken into custody. No statement from the suspect, the Court held, may be used when it stems from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom in any significant way.

Warren noted that a suspect under interrogation is subject to great psychological pressures designed "to overbear the will," and that questioning often takes place in an environment "created for no other purpose than to subjugate the individual to the will of his examiner." In overturning Miranda's conviction, the Court intended "to combat these pressures and to permit a full opportunity to exercise the privilege against self-incrimination. . . ."

A person in police custody "or otherwise deprived of his freedom. . . must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney, one will be appointed for him prior to any questioning if he so desires," Warren stated.

Constitutional Issue

The Fifth Amendment of the Constitution guarantees that "no person . . . shall be compelled in any criminal case to be a witness against himself. . . ." This right was made part of the Bill of Rights to prevent a tyrannical government from forcing accused persons to confess to crimes they may or may not have committed. Miranda's case before the Supreme Court was based on this Fifth Amendment protection. The Court accepted the

Once these warnings are given, the individual in custody may choose to stop answering questions, or may halt the interrogation until his attorney is present. Otherwise, he may waive his exercise of these rights. In such a case, there would be "a heavy burden . . . on the Government to demonstrate that the defendant knowingly and intelligently waived his privilege against self-incrimination and his right to . . . counsel."

The Miranda ruling applies only to interrogations. The Court emphasized that such safeguards were "not intended to hamper the traditional function of police officers in investigating crime. . . ." The ruling was not meant to bar "general on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process. . . ." In addition, the Chief Justice declared, the Fifth Amendment does not bar voluntary statements from a person who, for example, enters a police station ".

.. to confess to a crime, or a person who calls the police to offer a confession or any other statement he desires to make.”

The Miranda ruling has led to the practice now followed routinely by arresting police officers and other law enforcement officials during which they read a suspect his or her Miranda rights.

Dissenting Opinion

Justices John Marshall Harlan, Tom C. Clark, Potter Stewart, and Byron White dissented. They saw no historical precedent for the majority position and feared the decision could weaken law enforcement. Justice White condemned the majority for creating law enforcement directives he viewed as inflexible, while at the same time leaving many unanswered questions.

Review Questions

1. How has the Supreme Court interpreted the Fifth Amendment’s protection against self-incrimination to apply to all persons questioned in connection with a crime?
2. Suppose you were arrested as a suspect in a crime. The arresting officers rush you to a tiny room where they question you for 12 hours without a stop. Then, too weary to protest, you sign a confession. How would the Court’s Miranda decision protect you in such a situation?
3. At the scene of a crime, a police officer questions witnesses about the details of a holdup. The officer suspects that some of the witnesses are connected with the crime. How does the Miranda decision apply in such an instance?
4. What do you think would happen if a person convicted of a crime proved that she or he was not informed of the Miranda rights when questioned by the police?
5. In recent years, the Miranda decision has been criticized by some persons as protecting the rights of criminals and neglecting the rights of crime victims. Do you agree or disagree with this point of view? Why?